

### § 1.1113

payable at a future date, further processing of the application or filing, or the grant of authority, shall be conditioned upon final payment of the fee, plus other required payments for late payments, by the date prescribed by the deferral decision or bill. Failure to comply with the terms of the deferral decision or bill shall result in the automatic dismissal of the submission or rescission of the Commission authorization for failure to meet the condition imposed by this subpart. The Commission reserves the right to return payments received after the date established on the bill and exercise the conditions attached to the application. The Commission shall:

(1) Notify the grantee that the authorization has been rescinded;

(i) Upon such notification, the grantee will immediately cease operations initiated pursuant to the authorization.

(2) Not permit *nunc pro tunc* treatment to applicants who attempt to refile after the original deadline for the underlying submission.

(c) (1) Where an applicant is found to be delinquent in the payment of application fees, the Commission will make a written request for the delinquent fee, together with any penalties that may be due under this subpart. Such request shall inform the applicant/filer that failure to pay or make satisfactory payment arrangements will result in the Commission's withholding action on, and/or as appropriate, dismissal of, any applications or requests filed by the applicant. The staff shall also inform the applicant of the procedures for seeking Commission review of the staff's fee determination.

(2) If, after final determination that the fee is due or that the applicant is delinquent in the payment of fees, and payment is not made in a timely manner, the staff will withhold action on the application or filing until payment or other satisfactory arrangement is made. If payment or satisfactory arrangement is not made within 30 days

### 47 CFR Ch. I (10–1–04 Edition)

of the date of the original notification, the application will be dismissed.

[52 FR 5289, Feb. 20, 1987, as amended at 55 FR 19171, May 8, 1990. Redesignated at 59 FR 30998, June 16, 1994. Redesignated at 60 FR 5326, Jan. 27, 1995, as amended at 69 FR 27847, May 17, 2004]

#### § 1.1113 Return or refund of charges.

(a) All refunds will be issued to the payer named in the appropriate block of the FCC Form 159. The full amount of any fee submitted will be returned or refunded, as appropriate, under the authority granted at § 0.231.

(1) When no fee is required for the application or other filing. (*see* § 1.1109).

(2) When the fee processing staff or bureau/office determines that an insufficient fee has been submitted within 30 calendar days of receipt of the application or filing and the application or filing is dismissed.

(3) When the application is filed by an applicant who cannot fulfill a prescribed age requirement.

(4) When the Commission adopts new rules that nullify applications already accepted for filing, or new law or treaty would render useless a grant or other positive disposition of the application.

(5) When a waiver is granted in accordance with this subpart.

NOTE: Payments in excess of an application fee will be refunded only if the overpayment is \$10 or more.

(6) When an application for new or modified facilities is not timely filed in accordance with the filing window as established by the Commission in a public notice specifying the earliest and latest dates for filing such applications.

(b) Comparative hearings are no longer required.

(c) Applicants in the Media Services for first-come, first-served construction permits will be entitled to a refund of the fee, if, within fifteen days of the issuance of a Public Notice.

(d) Applicants for space station licenses under the first-come, first served procedure set forth in part 25 of this title will be entitled to a refund of the fee if, before the Commission has placed the application on public notice, the applicant notifies the Commission

## Federal Communications Commission

## § 1.1114

that it no longer wishes to keep its application on file behind the licensee and any other applicants who filed their applications before its application, and specifically requests a refund of the fee and dismissal of its application.

[52 FR 5289, Feb. 20, 1987, as amended at 53 FR 40889, Oct. 19, 1988; 56 FR 795, Jan. 9, 1991; 56 FR 56602, Nov. 6, 1991. Redesignated at 59 FR 30998, June 16, 1994. Redesignated at 60 FR 5326, Jan. 27, 1995, as amended at 65 FR 49762, Aug. 15, 2000; 67 FR 46303, July 12, 2002; 67 FR 67337, Nov. 5, 2002; 68 FR 51502, Aug. 27, 2003; 69 FR 41177, July 7, 2004]

### § 1.1114 General exemptions to charges.

No fee established in 1.1102 through 1.1107 of this subpart, unless otherwise qualified herein, shall be required for:

(a) Applications filed for the sole purpose of modifying an existing authorization (or a pending application for authorization) in order to comply with new or additional requirements of the Commission's rules or the rules of another Federal agency. However, if the applicant also requests an additional modification, renewal, or other action, the appropriate fee for such additional request must accompany the application. Cases in which a fee will be paid include applications by FM and TV licensees or permittees seeking to upgrade channel after a rulemaking.

(b) Applicants in the Special Emergency Radio and Public Safety Radio Services that are government entities or nonprofit entities. Applicants claiming nonprofit status must include a current Internal Revenue Service Determination Letter documenting this nonprofit status.

(c) Applicants, permittees or licensees of noncommercial educational broadcast stations in the FM or TV services, as well as AM applicants, permittees or licensees who certify that the station will operate or does operate in accordance with § 73.503 of the rules.

(d) Applicants, permittees, or licensees qualifying under paragraph (c) of this section requesting Commission authorization in any other mass media radio service (except the international broadcast (HF) service) private radio service, or common carrier radio communications service otherwise requiring a fee, if the radio service is used in

conjunction with the noncommercial educational broadcast station on a noncommercial educational basis.

(e) Other applicants, permittees, or licensees providing, or proposing to provide, a noncommercial educational or instructional service, but not qualifying under paragraph (c) of this section, may be exempt from filing fees, or be entitled to a refund, in the following circumstances.

(1) An applicant is exempt from filing fees if it is an organization that, like the Public Broadcasting Service or National Public Radio, receives funding directly or indirectly through the Public Broadcasting Fund, 47 U.S.C. 396(k), distributed by the Corporation for Public Broadcasting, where the authorization requested will be used in conjunction with the organization on a noncommercial educational basis;

(2) An applicant for a translator or low power television station that proposes a noncommercial educational service will be entitled to a refund of fees paid for the filing of the application when, after grant, it provides proof that it has received funding for the construction of the station through the National Telecommunications and Information Administration (NTIA) or other showings as required by the Commission.

(3) An applicant that has qualified for a fee refund under paragraph (e)(2) of this section and continues to operate as a noncommercial education station is exempt from fees for broadcast auxiliary stations (subparts D, E, and F of part 74) or stations in the private radio or common carrier services where such authorization is to be used in conjunction with the noncommercial educational translator or low power station.

(4) An applicant that is the licensee of an instructional television fixed station (§ 74.901 *et seq.*) is exempt from filing fees where the authorization requested will be used by the applicant in conjunction with the provision of the instructional service.

(f) Applicants, permittees or licensees who qualify as governmental entities. For purposes of this exemption a governmental entity is defined as any state, possession, city, county, town,